

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SANDRO MAYORAL-CLIMICO, :
JUAN CARLOS SANCHEZ ANDRADE, and :
REYMOUNDO MOLINA MEDEL, :
individually and on behalf of others similarly :
situated, :

Plaintiffs, :

-against- :

ORDER

PAPA FRESH, INC. d/b/a Papa John's, : 16-CV-7079 (JGK) (KNF)
PAPA EXPRESS, INC. d/b/a Papa John's, :
RICH FOODS 37 LLC d/b/a Papa John's, :
WONKA HOLDINGS CORP. d/b/a Papa John's, :
RICHARD D. SCHRAGGER, and ALICE :
MCLAMB, :

Defendants.

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KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

On December 30, 2019, the plaintiffs filed "Plaintiffs' Amended Proposed Findings of Fact and Conclusions of Law" and their attorney's declaration with exhibits, including Exhibit 7, "Damages Calculations," Docket Entry No. 106-8. The plaintiffs failed to identify in the "Plaintiffs' Amended Proposed Findings of Fact and Conclusions of Law" or their attorney's declaration the amounts of damages each of them seeks for each count asserted in the complaint. The plaintiffs' attorney did not explain in his declaration who prepared Exhibit 7 or its content. Exhibit 7 consists of 6 pages containing tables. It appears that the tables contained on the incomplete page 1 of 6, on which "Mayoral-Climico, Sandro" is indicated, continue on page 4 of 6. Similarly, it appears that the tables contained on the incomplete page 2 of 6, on which "Sanchez Andrade, Juan Carlos" is indicated, continue on page 5 of 6, and the tables contained on the incomplete page 3 of 6, on which "Molina Medel, Reymundo" is indicated, continue on

page 6 of 6. Pages 4 of 6, 5 of 6 and 6 of 6 in Exhibit 7 contain certain calculations of damages under the Fair Labor Standards Act (“FLSA”) and certain calculations of damages under New York Labor Law (“NYLL”). However, pages 4 of 6, 5 of 6 and 6 of 6 indicate on their bottom lines that the plaintiffs seek only damages under NYLL, not FLSA; thus, the purpose of including calculations of damages under FLSA is unclear and their inclusion is confusing.

On or before October 6, 2020, the plaintiffs’ attorney shall file a declaration with a revised calculation of damages for each plaintiff, in which the attorney shall: (a) identify who prepared the calculations; (b) explain, in a concise and clear manner, the calculation method(s) employed; (c) identify the amounts of damages each plaintiff seeks for each count asserted in the complaint, referencing relevant part(s) of the table(s) in which the amounts requested are indicated; and (d) remove from the tables calculations of damages under FLSA if the plaintiffs seek, as it appears, only damages under NYLL. The plaintiffs shall serve the defendants with: (i) a copy of this order; and (ii) the materials directed to be filed in this order, and file proof of such service with the Clerk of Court. On or before October 16, 2020, the defendants shall serve and file any response to the attorney’s declaration with the revised calculation of damages.

Dated: New York, New York
September 28, 2020

SO ORDERED:

Kevin Nathaniel Fox
KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE